

1           **SECTION 89.** 77.51 (13gm) of the statutes is created to read:

2           **77.51 (13gm)** (a) "Retailer engaged in business in this state" does not include  
3 a retailer who has no activities as described in sub. (13g), except for activities  
4 described in sub. (13g) (c), unless the retailer meets either of the following criteria  
5 in the previous year or current year:

6           1. The retailer's annual gross sales into this state exceed \$100,000.

7           2. The retailer's annual number of separate sales transactions into this state  
8 is 200 or more.

9           (b) If an out-of-state retailer's annual gross sales into this state exceed  
10 \$100,000 in the previous year or the retailer's annual number of separate sales  
11 transactions into this state is 200 or more in the previous year, the retailer shall  
12 register with the department and collect the tax imposed under s. 77.52 or 77.53 on  
13 sales sourced to this state under s. 77.522 for the entire current year.

14           (c) If an out-of-state retailer's annual gross sales into this state are \$100,000  
15 or less in the previous year and the retailer's annual number of separate sales  
16 transactions into this state is less than 200 in the previous year, the retailer is not  
17 required to register with the department and collect the tax imposed under s. 77.52  
18 or 77.53 on sales sourced to this state under s. 77.522 until the retailer's sales or  
19 transactions meet the criteria in par. (a) 1. or 2. for the current year, at which time  
20 the retailer shall register with the department and collect the tax for the remainder  
21 of the current year.

22           (d) All of the following apply for purposes of this subsection:

23           1. "Year" means the retailer's taxable year for federal income tax purposes.

24           2. The annual amounts described in this subsection include both taxable and  
25 nontaxable sales.

1           3. Each required periodic payment of a lease or license is a separate sales  
2 transaction.

3           4. Deposits made in advance of a sale are not sales transactions.

4           5. An out-of-state retailer's annual amounts include all sales into this state  
5 by the retailer on behalf of other persons and all sales into this state by another  
6 person on the retailer's behalf.

7           **SECTION 90.** 84.013 (3) (ad) of the statutes is amended to read:

8           84.013 (3) (ad) Notwithstanding s. 13.489 (4) (c), any project approved by the  
9 transportation projects commission under s. 13.489 (4m) (b), 2015 stats., before the  
10 effective date of this paragraph .... [LRB inserts date].

11           **SECTION 91.** 84.03 (3) of the statutes is created to read:

12           84.03 (3) EXPENDITURE OF FEDERAL AID. (a) Except as provided under pars. (b)  
13 and (c), the department may not expend federal funds greater than 105 percent or  
14 less than 95 percent of the amount that is shown in the schedule for that fiscal year  
15 for each appropriation of federal funds under s. 20.395 (3) (ax), (bx), (cx), (dx), and  
16 (dy) for the purposes provided in that appropriation.

17           (b) The department may file a request to expend an amount greater than or less  
18 than an expenditure threshold under par. (a) with the cochairpersons of the joint  
19 committee on finance. If the cochairpersons of the joint committee on finance do not  
20 notify the department that the committee has scheduled a meeting for the purpose  
21 of reviewing the request within 14 working days after the department filed the  
22 request, the department may expend funds as described in the request. If, within  
23 14 working days after the department filed the request, the cochairpersons of the  
24 joint committee on finance notify the secretary that the committee has scheduled a

meeting for the purpose of reviewing the department's request, the department may expend funds as described in the request only with the committee's approval.

(c) The expenditure thresholds under par. (a) do not apply to any unencumbered federal funds carried into the balance of an appropriation from a prior fiscal year if used for the purposes of that appropriation.

SECTION 92. 84.54 of the statutes is created to read:

**84.54 Minimum federal expenditures for projects receiving federal funding.** (1) Except as provided in sub. (2), for all of the following projects on which the department expends federal moneys, the department shall expend federal moneys on not less than 70 percent of the aggregate project components eligible for federal funding each fiscal year:

(a) Southeast Wisconsin freeway megaprojects.

(b) Major highway development projects.

(c) State highway rehabilitation projects with a total cost of less than \$10 million.

(2) If the department determines that it cannot meet the requirements under sub. (1) or that it can make more effective and efficient use of federal moneys than the use required under sub. (1), the department may submit a proposed alternate funding plan to the joint committee on finance. If the cochairpersons of the committee do not notify the department within 14 working days after the date of the department's submittal that the committee has scheduled a meeting for the purpose of reviewing the proposed plan, the department may expend moneys as proposed in the plan. If, within 14 working days after the date of the submittal, the cochairpersons of the committee notify the department that the committee has

1 scheduled a meeting for the purpose of reviewing the proposed plan, the department  
2 may expend moneys as proposed in the plan only upon approval of the committee.

3 **SECTION 93.** 85.05 of the statutes is amended to read:

4 **85.05 Evaluation of proposed major highway projects.** The department  
5 by rule shall establish a procedure for numerically evaluating projects considered for  
6 enumeration under s. 84.013 (3) as a major highway project. The evaluation  
7 procedure may include any criteria that the department considers relevant. The  
8 rules shall establish a minimum score that a project shall meet or exceed when  
9 evaluated under the procedure established under this section before the department  
10 may recommend the project to the transportation projects commission for  
11 consideration under s. 13.489 (4). ~~This section does not apply to major highway~~  
12 ~~projects identified in s. 84.013 (3) (ad).~~

13 **SECTION 94.** 86.51 of the statutes is created to read:

14 **86.51 Requirements for local projects. (1)** In this section:

15 (a) "Local bridge" means a bridge that is not on the state trunk highway system  
16 or on marked routes of the state trunk highway system designated as connecting  
17 highways.

18 (b) "Local roads" means streets under the authority of cities or villages, county  
19 trunk highways, or town roads.

20 (c) "Political subdivision" means a county, city, village, or town.

21 (d) "Project" means the development, construction, repair, or improvement of  
22 a local road or a local bridge.

23 **(2)** If the department disburses aid to a political subdivision for a project, the  
24 department shall notify the political subdivision whether the aid includes federal  
25 moneys and which project components must be paid for with federal moneys, if any.

1           **(3)** For any project meeting all of the following criteria, the department may  
2 not require a political subdivision to comply with any portion of the department's  
3 facilities development manual other than design standards:

4           (a) The project proposal is reviewed and approved by a professional engineer  
5 or by the highway commissioner for the county in which the project will be located.

6           (b) The project is conducted by a political subdivision with no expenditure of  
7 federal money.

8           **SECTION 95.** 106.05 (2) (b) (intro.) of the statutes is amended to read:

9           106.05 (2) (b) (intro.) Subject to par. (c) and sub. (3), from the appropriation  
10 under s. 20.445 (1) ~~(b)~~ (dr), the department may provide to an apprentice described  
11 in par. (a) 1. or the apprentice's sponsor a completion award equal to 25 percent of  
12 the cost of tuition incurred by the apprentice or sponsor or \$1,000, whichever is less.  
13 If the department provides a completion award under this subsection, the  
14 department shall pay the award as follows:

15           **SECTION 96.** 106.05 (3) (a) of the statutes is amended to read:

16           106.05 (3) (a) If the amount of funds to be distributed under sub. (2) exceeds  
17 the amount available in the appropriation under s. 20.445 (1) ~~(b)~~ (dr) for completion  
18 awards under sub. (2), the department may reduce the reimbursement percentage  
19 or deny applications for completion awards that would otherwise qualify under sub.  
20 (2). In that case, the department shall determine the reimbursement percentage and  
21 eligibility on the basis of the dates on which apprentices and sponsors become eligible  
22 for completion awards.

23           **SECTION 97.** 106.13 (3m) (b) (intro.) of the statutes is amended to read:

24           106.13 **(3m)** (b) (intro.) From the appropriation under s. 20.445 (1) ~~(b)~~ (e), the  
25 department may award grants to applying local partnerships for the implementation

1 and coordination of local youth apprenticeship programs. A local partnership shall  
2 include in its grant application the identity of each public agency, nonprofit  
3 organization, individual, and other person who is a participant in the local  
4 partnership, a plan to accomplish the implementation and coordination activities  
5 specified in subds. 1. to 6., and the identity of a fiscal agent who ~~shall be~~ is responsible  
6 for receiving, managing, and accounting for the grant moneys received under this  
7 paragraph. Subject to par. (c), a local partnership that is awarded a grant under this  
8 paragraph may use the grant moneys awarded for any of the following  
9 implementation and coordination activities:

10 **SECTION 98.** 106.18 of the statutes is amended to read:

11 **106.18 Youth programs in 1st class cities.** From the appropriation account  
12 under s. 20.445 (1) ~~(b)~~ (fm), the department shall implement and operate youth  
13 summer jobs programs in 1st class cities.

14 **SECTION 99.** 106.26 (3) (c) (intro.) of the statutes is amended to read:

15 106.26 (3) (c) (intro.) To make grants from the appropriation under s. 20.445  
16 (1) ~~(b)~~ (fg) to eligible applicants to conduct projects or to match a federal grant  
17 awarded to an eligible applicant to conduct a project. Grants by the department are  
18 subject to all of the following requirements:

19 **SECTION 100.** 106.272 (1) of the statutes is amended to read:

20 106.272 (1) From the appropriation under s. 20.445 (1) ~~(b)~~ (dg), the department  
21 shall award grants to the school board of a school district or to the governing body  
22 of a private school, as defined under s. 115.001 (3d), or to a charter management  
23 organization that has partnered with an educator preparation program approved by  
24 the department of public instruction and headquartered in this state to design and  
25 implement a teacher development program.

1           **SECTION 101.** 106.273 (3) (a) (intro.) of the statutes is amended to read:

2           106.273 (3) (a) (intro.) From the appropriation under s. 20.445 (1) ~~(b)~~ (bz), the  
3       department shall ~~allocate not less than \$3,500,000 in each fiscal year for incentive~~  
4       ~~grants to school districts under this subsection. From that allocation, the~~  
5       ~~department shall~~ annually award all of the following incentive grants to school  
6       districts:

7           **SECTION 102.** 106.273 (3) (b) of the statutes is amended to read:

8           106.273 (3) (b) If the amount ~~allocated under par. (a)~~ available in the  
9       appropriation under s. 20.445 (1) (bz) in any fiscal year is insufficient to pay the full  
10      amount per student under par. (a) 1m. and 2m., the department may prorate the  
11      amount of the department's payments among school districts eligible for incentive  
12      grants under this subsection.

13          **SECTION 103.** 106.275 (1) (a) of the statutes is amended to read:

14          106.275 (1) (a) From the appropriation under s. 20.445 (1) ~~(b)~~ (cg), the  
15      department ~~may allocate up to \$500,000 in each fiscal year for technical education~~  
16      ~~equipment grants to school districts under this section. From that allocation, the~~  
17      department may award technical education equipment grants under this section in  
18      the amount of not more than \$50,000 to school districts whose grant applications are  
19      approved under sub. (2) (b).

20          **SECTION 104.** 108.04 (2) (a) (intro.) of the statutes is amended to read:

21          108.04 (2) (a) (intro.) Except as provided in ~~par. (b) and to (bd)~~, sub. (16)  
22      ~~(am) and (b), and s. 108.062 (10) and (10m)~~ and as otherwise expressly provided, a  
23      claimant is eligible for benefits as to any given week only if all of the following apply:

24          **SECTION 105.** 108.04 (2) (a) 1. of the statutes is amended to read:

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1           108.04 (2) (a) 1. ~~Except as provided in s. 108.062 (10), the individual~~ The  
2           claimant is able to work and available for work during that week;.

3           **SECTION 106.** 108.04 (2) (a) 2. of the statutes is amended to read:

4           108.04 (2) (a) 2. ~~Except as provided in s. 108.062 (10m), as of that week, the~~  
5           ~~individual~~ The claimant has registered for work ~~as directed in the manner prescribed~~  
6           by the department; by rule.

7           **SECTION 107.** 108.04 (2) (a) 3. (intro.) of the statutes is renumbered 108.04 (2)  
8           (a) 3. and amended to read:

9           108.04 (2) (a) 3. The ~~individual~~ claimant conducts a reasonable search for  
10           suitable work during that week, ~~unless the search requirement is waived under par.~~  
11           ~~(b) or s. 108.062 (10m) and provides verification of that search to the department.~~

12           The search for suitable work must include at least 4 actions per week that constitute  
13           a reasonable search as prescribed by rule of the department. In addition, the  
14           department may, by rule, require ~~an individual~~ a claimant to take more than 4  
15           reasonable work search actions in any week. The department shall require a  
16           uniform number of reasonable work search actions for similar types of claimants.  
17           ~~This subdivision does not apply to an individual if the department determines that~~  
18           ~~the individual is currently laid off from employment with an employer but there is~~  
19           ~~a reasonable expectation of reemployment of the individual by that employer. In~~  
20           ~~determining whether the individual has a reasonable expectation of reemployment~~  
21           ~~by an employer, the department shall request the employer to verify the individual's~~  
22           ~~employment status and shall also consider other factors, including:~~

23           **SECTION 108.** 108.04 (2) (a) 3. a. to c. of the statutes are renumbered 108.04 (2)  
24           (b) 1. a. to c. and amended to read:

25           108.04 (2) (b) 1. a. The history of layoffs and reemployments by the employer;.



1           b. Any information that the employer furnished to the individual claimant or  
2           the department concerning the individual's claimant's anticipated reemployment  
3           date; and.

4           c. Whether the individual claimant has recall rights with the employer under  
5           the terms of any applicable collective bargaining agreement; and.

6           **SECTION 109.** 108.04 (2) (b) of the statutes is renumbered 108.04 (2) (b) (intro.)  
7           and amended to read:

8           108.04 (2) (b) (intro.) ~~The requirements for registration for work and search for~~  
9           ~~work shall be prescribed by rule of the department, and the department may by~~  
10          ~~general rule shall, except as provided under par. (bd), waive these requirements the~~  
11          ~~registration for work requirement under certain stated conditions. par. (a) 2. if any~~  
12          of the following applies:

13          **SECTION 110.** 108.04 (2) (b) 1. (intro.) of the statutes is created to read:

14          108.04 (2) (b) 1. (intro.) The department determines that the claimant is  
15          currently laid off from employment with an employer but there is a reasonable  
16          expectation of reemployment of the claimant by that employer within a period of 8  
17          weeks, which may be extended up to an additional 4 weeks but not to exceed a total  
18          of 12 weeks. In determining whether the claimant has a reasonable expectation of  
19          reemployment by an employer, the department shall request the employer to verify  
20          the claimant's employment status and shall consider all of the following:

21          **SECTION 111.** 108.04 (2) (b) 2. to 6. of the statutes are created to read:

22          108.04 (2) (b) 2. The claimant has a reasonable expectation of starting  
23          employment with a new employer within 4 weeks and the employer has verified the  
24          anticipated starting date with the department. A waiver under this subdivision may  
25          not exceed 4 weeks.

1           3. The claimant has been laid off from work and routinely obtains work through  
2 a labor union referral and all of the following apply:

3           a. The union is the primary method used by workers to obtain employment in  
4 the claimant's customary occupation.

5           b. The union maintains records of unemployed members and the referral  
6 activities of these members, and the union allows the department to inspect those  
7 records.

8           c. The union provides, upon the request of the department, any information  
9 regarding a claimant's registration with the union or any referrals for employment  
10 it has made to the claimant.

11           d. Prospective employers of the claimant seldom place orders with the public  
12 employment office for jobs requiring occupational skills similar to those of the  
13 claimant.

14           e. The claimant is registered for work with a union and satisfies the  
15 requirements of the union relating to job referral procedures, and maintains  
16 membership in good standing with the union.

17           f. The union enters into an agreement with the department regarding the  
18 requirements of this subdivision.

19           4. The claimant is summoned to serve as a prospective or impaneled juror.

20           5. The requirements are waived under s. 108.04 (16) or 108.062 (10m), or the  
21 claimant is enrolled in and satisfactorily participating in a self-employment  
22 assistance program or another program established under state or federal law and  
23 the program provides that claimants who participate in the program shall be waived  
24 by the department from work registration requirements.

1           6. The claimant is unable to complete registration due to circumstances that  
2 the department determines are beyond the claimant's control.

3           **SECTION 112.** 108.04 (2) (bb) of the statutes is created to read:

4           108.04 (2) (bb) The department shall, except as provided under par. (bd), waive  
5 the work search requirement under par. (a) 3. if any of the following applies:

6           1. A reason specified in par (b) 1., 2., 3., or 4.

7           2. The claimant performs any work for his or her customary employer.

8           3. The requirements are waived under s. 108.04 (16) or 108.062 (10m), or the  
9 claimant is enrolled in and satisfactorily participating in a self-employment  
10 assistance program or another program established under state or federal law and  
11 the program provides that claimants who participate in the program shall be waived  
12 by the department from work search requirements.

13           4. The claimant has not complied with the requirement because of an error  
14 made by personnel of the department.

15           5. The claimant's most recent employer failed to post appropriate notice posters  
16 as to claiming unemployment benefits as required by the department by rule, and  
17 the claimant was not aware of the work search requirement.

18           6. The claimant has been referred for reemployment services, is participating  
19 in such services, or is not participating in such services, but has good cause for failure  
20 to participate. For purposes of this subdivision, a claimant has good cause if he or she  
21 is unable to participate due to any of the following:

22           a. A reason specified in subd. 3. or par (b) 4.

23           b. The claimant is employed.

24           c. The claimant is attending a job interview.

1 d. Circumstances that the department determines are beyond the claimant's  
2 control.

3 **SECTION 113.** 108.04 (2) (bd) of the statutes is created to read:

4 108.04 (2) (bd) The department may, by rule, do any of the following if doing  
5 so is necessary to comply with a requirement under federal law or is specifically  
6 allowed under federal law:

7 1. Modify the availability of any waiver under par. (b) or (bb).

8 2. Establish additional waivers from the requirements under par. (a) 2. and 3.

9 **SECTION 114.** 108.04 (2) (bm) of the statutes is amended to read:

10 108.04 (2) (bm) A claimant is ineligible to receive benefits for any week for  
11 which there is a determination that the claimant failed to ~~conduct a reasonable~~  
12 ~~search for suitable~~ comply with the registration for work and work and search  
13 requirements under par. (a) 2. or 3. or failed to provide verification to the department  
14 that the claimant complied with those requirements, unless the department has not  
15 waived the search requirement those requirements under par. (b), (bb), or (bd) or s.  
16 108.062 (10m). If the department has paid benefits to a claimant for any such week,  
17 the department may recover the overpayment under s. 108.22.

18 **SECTION 115.** 165.055 (3) of the statutes is repealed.

19 **SECTION 116.** 165.07 of the statutes is created to read:

20 **165.07 Intervention by joint committee on legislative organization.** If  
21 the joint committee on legislative organization intervenes in an action in state or  
22 federal court as permitted under s. 803.09 (2m), the attorney general shall notify the  
23 court of the substitution of counsel by special counsel appointed by the joint  
24 committee on legislative organization and may not participate in the action.

1       **SECTION 117.** 165.08 of the statutes is renumbered 165.08 (1) and amended to  
2 read:

3       **165.08 (1)** Any civil action prosecuted by the department by direction of any  
4 officer, department, board, or commission, shall be compromised or discontinued  
5 when so directed by such officer, department, board, or commission.

6       **(2)** Any civil action prosecuted by the department on the initiative of the  
7 attorney general, or at the request of any individual may be compromised or  
8 discontinued with the approval of the governor by submitting a proposed plan to the  
9 joint committee on finance for the approval of the committee. The compromise or  
10 discontinuance may occur only if the joint committee on finance approves the  
11 proposed plan. No proposed plan may be submitted to the joint committee on finance  
12 if the plan concedes the unconstitutionality or other invalidity of a statute, facially  
13 or as applied, or concedes that a statute violates or is preempted by federal law,  
14 without the approval of the joint committee on legislative organization.

15       **(3)** In any criminal action prosecuted by the attorney general, the department  
16 shall have the same powers with reference to such action as are vested in district  
17 attorneys.

18       **SECTION 118.** 165.10 of the statutes, as created by 2017 Wisconsin Act 59, is  
19 amended to read:

20       **165.10 ~~Limits on expenditure~~ Deposit of discretionary settlement**  
21 **funds.** Notwithstanding s. 20.455 (3), before the ~~The~~ attorney general may expend  
22 shall deposit all settlement funds under s. 20.455 (3) (g) that are not committed  
23 under the terms of the settlement, the attorney general shall submit to the joint  
24 committee on finance a proposed plan for the expenditure of the funds. If the  
25 cochairpersons of the committee do not notify the attorney general within 14 working

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1 ~~days after the submittal that the committee has scheduled a meeting for the purpose~~  
2 ~~of reviewing the proposed plan, the attorney general may expend the funds to~~  
3 ~~implement the proposed plan. If, within 14 working days after the submittal, the~~  
4 ~~cochairpersons of the committee notify the attorney general that the committee has~~  
5 ~~scheduled a meeting for the purpose of reviewing the proposed plan, the attorney~~  
6 ~~general may expend the funds only to implement the plan as approved by the~~  
7 ~~committee into the general fund.~~

8 **SECTION 119.** 165.25 (1) of the statutes is amended to read:

9 165.25 (1) REPRESENT STATE IN APPEALS AND ON REMAND. Except as provided in  
10 ss. 5.05 (2m) (a), 19.49 (2) (a), and 978.05 (5), if the joint committee on legislative  
11 organization does not intervene as permitted under s. 803.09 (2m), appear for the  
12 state and prosecute or defend all actions and proceedings, civil or criminal, in the  
13 court of appeals and the supreme court, in which the state is interested or a party,  
14 and attend to and prosecute or defend all civil cases sent or remanded to any circuit  
15 court in which the state is a party. ~~Nothing~~ The joint committee on legislative  
16 organization may intervene as permitted under s. 803.09 (2m) at any time, and if the  
17 committee intervenes, the attorney general shall notify the court of the substitution  
18 of counsel by special counsel appointed by the committee to represent the state and  
19 may not participate in the action, proceeding, or case. Unless the joint committee on  
20 legislative organization intervenes as permitted under s. 803.09 (2m), nothing in this  
21 subsection deprives or relieves the attorney general or the department of justice of  
22 any authority or duty under this chapter in any other matter.

23 **SECTION 120.** 165.25 (1m) of the statutes is amended to read:

24 165.25 (1m) REPRESENT STATE IN OTHER MATTERS. If the joint committee on  
25 legislative organization does not intervene as permitted under s. 803.09 (2m), if

1 requested by the governor or either house of the legislature, appear for and represent  
2 the state, any state department, agency, official, employee or agent, whether  
3 required to appear as a party or witness in any civil or criminal matter, and prosecute  
4 or defend in any court or before any officer, any cause or matter, civil or criminal, in  
5 which the state or the people of this state may be interested. The joint committee on  
6 legislative organization may intervene as permitted under s. 803.09 (2m) at any  
7 time, and if the committee intervenes, the attorney general shall notify the court of  
8 the substitution of counsel by special counsel appointed by the committee to  
9 represent the state and may not participate in the cause or matter. The public service  
10 commission may request under s. 196.497 (7) that the attorney general intervene in  
11 federal proceedings. All expenses of the proceedings shall be paid from the  
12 appropriation under s. 20.455 (1) (d).

13 **SECTION 121.** 165.25 (6) (a) of the statutes is renumbered 165.25 (6) (a) 1. and  
14 amended to read:

15 165.25 (6) (a) 1. At Except as provided in s. 893.825 (2), at the request of the  
16 head of any department of state government, the attorney general may appear for  
17 and defend any state department, or any state officer, employee, or agent of the  
18 department in any civil action or other matter brought before a court or an  
19 administrative agency which is brought against the state department, or officer,  
20 employee, or agent for or on account of any act growing out of or committed in the  
21 lawful course of an officer's, employee's, or agent's duties. Witness fees or other  
22 expenses determined by the attorney general to be reasonable and necessary to the  
23 defense in the action or proceeding shall be paid as provided for in s. 885.07. The  
24 attorney general may compromise and settle the action as the attorney general  
25 determines to be in the best interest of the state except that, if the action is for

1 injunctive relief or there is a proposed consent decree, the attorney general may not  
2 compromise or settle the action without first submitting a proposed plan to the joint  
3 committee on finance. If, within 14 working days after the plan is submitted, the  
4 cochairpersons of the committee notify the attorney general that the committee has  
5 scheduled a meeting for the purpose of reviewing the proposed plan, the attorney  
6 general may compromise or settle the action only with the approval of the committee.  
7 The attorney general may not submit a proposed plan to the joint committee on  
8 finance under this subdivision in which the plan concedes the unconstitutionality or  
9 other invalidity of a statute, facially or as applied, or concedes that a statute violates  
10 or is preempted by federal law, without the approval of the joint committee on  
11 legislative organization.

12       2. Members, officers, and employees of the Wisconsin state agencies building  
13 corporation and the Wisconsin state public building corporation are covered by this  
14 section. Members of the board of governors created under s. 619.04 (3), members of  
15 a committee or subcommittee of that board of governors, members of the injured  
16 patients and families compensation fund peer review council created under s.  
17 655.275 (2), and persons consulting with that council under s. 655.275 (5) (b) are  
18 covered by this section with respect to actions, claims, or other matters arising  
19 before, on, or after April 25, 1990. The attorney general may compromise and settle  
20 claims asserted before such actions or matters formally are brought or may delegate  
21 such authority to the department of administration. This paragraph may not be  
22 construed as a consent to sue the state or any department thereof or as a waiver of  
23 state sovereign immunity.

24       **SECTION 122.** 227.01 (3m) of the statutes is created to read:



1       227.01 (3m) (a) "Guidance document" means, except as provided in par. (b), any  
2       formal or official document or communication issued by an agency, including a  
3       manual, handbook, directive, or informational bulletin, that does any of the  
4       following:

5           1. Explains the agency's implementation of a statute or rule enforced or  
6       administered by the agency, including the current or proposed operating procedure  
7       of the agency.

8           2. Provides guidance or advice with respect to how the agency is likely to apply  
9       a statute or rule enforced or administered by the agency, if that guidance or advice  
10      is likely to apply to a class of persons similarly affected.

11       (b) "Guidance document" does not include any of the following:

12           1. A rule that has been promulgated and that is currently in effect or a proposed  
13      rule that is in the process of being promulgated.

14           2. A standard adopted, or a statement of policy or interpretation made, whether  
15      preliminary or final, in the decision of a contested case, in a private letter ruling  
16      under s. 73.035, or in an agency decision upon or disposition of a particular matter  
17      as applied to a specific set of facts.

18           3. Any document or activity described in sub. (13) (a) to (zz), except that  
19      "guidance document" includes a pamphlet or other explanatory material described  
20      under sub. (13) (r) that otherwise satisfies the definition of "guidance document"  
21      under par. (a).

22           4. Any document that any statute specifically provides is not required to be  
23      promulgated as a rule.

24           5. A declaratory ruling issued under s. 227.41.

25           6. A pleading or brief filed in court by the state, an agency, or an agency official.

1           7. A letter or written legal advice of the department of justice or a formal or  
2 informal opinion of the attorney general, including an opinion issued under s.  
3 165.015 (1).

4           8. Any document or communication for which a procedure for public input,  
5 other than that provided under s. 227.112 (1), is provided by law.

6           9. Any document or communication that is not subject to the right of inspection  
7 and copying under s. 19.35 (1).

8           **SECTION 123.** 227.01 (13) (intro.) of the statutes is amended to read:

9           227.01 (13) (intro.) "Rule" means a regulation, standard, statement of policy,  
10 or general order of general application ~~which~~ that has the effect force of law and  
11 ~~which~~ that is issued by an agency to implement, interpret, or make specific  
12 legislation enforced or administered by the agency or to govern the organization or  
13 procedure of the agency. "Rule" includes a modification of a rule under s. 227.265.  
14 "Rule" does not include, and s. 227.10 does not apply to, any action or inaction of an  
15 agency, whether it would otherwise meet the definition under this subsection, ~~which~~  
16 that:

17           **SECTION 124.** 227.05 of the statutes is created to read:

18           **227.05 Agency publications.** An agency shall identify the applicable  
19 provision of federal law or the applicable state statutory or administrative code  
20 provision that supports any statement or interpretation of law that the agency  
21 makes in any publication, whether in print or on the agency's Internet site, including  
22 guidance documents, forms, pamphlets, or other informational materials, regarding  
23 the laws the agency administers.

24           **SECTION 125.** Subchapter II (title) of chapter 227 [precedes 227.10] of the  
25 statutes is amended to read:

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**CHAPTER 227****SUBCHAPTER II****ADMINISTRATIVE RULES AND  
GUIDANCE DOCUMENTS**

**SECTION 126.** 227.10 (2g) of the statutes is created to read:

227.10 (2g) No agency may seek deference in any proceeding based on the agency's interpretation of any law.

**SECTION 127.** 227.11 (title) of the statutes is amended to read:

**227.11 (title) ~~Extent to which chapter confers~~ Agency rule-making authority.**

**SECTION 128.** 227.11 (title) of the statutes is amended to read:

**227.11 (title) ~~Extent to which chapter confers~~ Agency rule-making authority.**

**SECTION 129.** 227.11 (3) of the statutes is created to read:

227.11 (3)<sup>(a)</sup> A plan that is submitted to the federal government for the purpose of complying with a requirement of federal law does not confer rule-making authority and cannot be used by an agency as authority to promulgate rules. No agency may agree to promulgate a rule as a component of a compliance plan unless the agency has explicit statutory authority to promulgate the rule at the time the compliance plan is submitted.

**SECTION 130.** 227.11 (3) of the statutes is created to read:

227.11 (3)<sup>(b)</sup> A settlement agreement, consent decree, or court order does not confer rule-making authority and cannot be used by an agency as authority to promulgate rules. No agency may agree to promulgate a rule as a term in any settlement agreement, consent decree, or stipulated order of a court unless the

1 agency has explicit statutory authority to promulgate the rule at the time the  
2 settlement agreement, consent decree, or stipulated order of a court is executed.

3 **SECTION 131.** 227.112 of the statutes is created to read:

4 **227.112 Guidance documents. (1)** (a) Before adopting a guidance document,  
5 an agency shall submit to the legislative reference bureau the proposed guidance  
6 document with a notice of a public comment period on the proposed guidance  
7 document under par. (b), in a format approved by the legislative reference bureau,  
8 for publication in the register. The notice shall specify the place where comments  
9 should be submitted and the deadline for submitting those comments.

10 (b) The agency shall provide for a period for public comment on a proposed  
11 guidance document submitted under par. (a), during which any person may submit  
12 written comments to the agency with respect to the proposed guidance document.  
13 Except as provided in par. (c), the period for public comment shall end no sooner than  
14 the 21st day after the date on which the proposed guidance document is published  
15 in the register under s. 35.93 (2) (b) 3. im. The agency may not adopt the proposed  
16 guidance document until the comment period has concluded and the agency has  
17 complied with par. (d).

18 (c) An agency may hold a public comment period shorter than 21 days with the  
19 approval of the governor.

20 (d) An agency shall retain all written comments submitted during the public  
21 comment period under par. (b) and shall consider those comments in determining  
22 whether to adopt the guidance document as originally proposed, modify the proposed  
23 guidance document, or take any other action.

24 **(2)** An agency shall post each guidance document that the agency has adopted  
25 on the agency's Internet site and shall permit continuing public comment on the

1 guidance document. The agency shall ensure that each guidance document that the  
2 agency has adopted remains on the agency's Internet site as provided in this  
3 subsection until the guidance document is no longer in effect, is no longer valid, or  
4 is superseded or until the agency otherwise rescinds its adoption of the guidance  
5 document.

6 (3) A guidance document does not have the force of law and does not provide  
7 the authority for implementing or enforcing a standard, requirement, or threshold,  
8 including as a term or condition of any license. An agency that proposes to rely on  
9 a guidance document to the detriment of a person in any proceeding shall afford the  
10 person an adequate opportunity to contest the legality or wisdom of a position taken  
11 in the guidance document. An agency may not use a guidance document to foreclose  
12 consideration of any issue raised in the guidance document.

13 (4) If an agency proposes to act in any proceeding at variance with a position  
14 expressed in a guidance document, it shall provide a reasonable explanation for the  
15 variance. If an affected person in any proceeding may have relied reasonably on the  
16 agency's position, the explanation must include a reasonable justification for the  
17 agency's conclusion that the need for the variance outweighs the affected person's  
18 reliance interest.

19 (5) Persons that qualify under s. 227.12 to petition an agency to promulgate  
20 a rule may, as provided in s. 227.12, petition an agency to promulgate a rule in place  
21 of a guidance document.

22 (6) Any guidance document shall be signed by the secretary or head of the  
23 agency below the following certification: "I have reviewed this guidance document  
24 or proposed guidance document and I certify that it complies with sections 227.10  
25 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document

**SECTION 131**

1 or proposed guidance document contains no standard, requirement, or threshold  
2 that is not explicitly required or explicitly permitted by a statute or a rule that has  
3 been lawfully promulgated. I further certify that the guidance document or proposed  
4 guidance document contains no standard, requirement, or threshold that is more  
5 restrictive than a standard, requirement, or threshold contained in the Wisconsin  
6 Statutes.”

7 (7) This section does not apply to guidance documents adopted before the first  
8 day of the 7th month beginning after the effective date of this subsection .... [LRB  
9 inserts date], but on that date any guidance document that has not been adopted in  
10 accordance with sub. (1) or that does not contain the certification required under sub.  
11 (6) shall be considered rescinded.

12 (8) The legislative council staff shall provide agencies with assistance in  
13 determining whether documents and communications are guidance documents that  
14 are subject to the requirements under this section.

15 **SECTION 132.** 227.13 of the statutes is amended to read:

16 **227.13 Advisory committees and informal consultations.** An agency may  
17 use informal conferences and consultations to obtain the viewpoint and advice of  
18 interested persons with respect to contemplated rule making. An agency also may  
19 also appoint a committee of experts, interested persons or representatives of the  
20 public to advise it with respect to any contemplated rule making. The Such a  
21 committee shall have advisory powers only. Whenever an agency appoints a  
22 committee under this section, the agency shall submit a list of the members of the  
23 committee to the joint committee for review of administrative rules.

24 **SECTION 133.** 227.135 (1) (g) of the statutes is created to read:

1           227.135 (1) (g) A statement as to whether the agency anticipates that the  
2       proposed rule will have minimal or no economic impact, a moderate economic impact,  
3       or a significant economic impact, whether locally, statewide, or on a sector of the  
4       economy.

      \*\*\*\*NOTE: The executive order does not define what these standards mean and  
      therefore leaves it up to the agency to decide. Since this is part of the scope statement,  
      the agency may not have much sense of what the impact of the rule will be, but you could  
      try to further define what these terms would mean so as to avoid a lot of variation from  
      agency to agency and rule to rule. The agency's determination here, under the executive  
      order, also determines how long the agency's EIA comment period must be, though it does  
      provide for the adjustment of the comment period based on later changes in the agency's  
      assessment. That material is in SECTION 146 of the bill.

5           **SECTION 134.** 227.135 (1) (h) of the statutes is created to read:

6           227.135 (1) (h) For a proposed emergency rule promulgated under s. 227.24,  
7       an explanation of why the rule is necessary for the preservation of the public peace,  
8       health, safety, or welfare. If the rule is exempt from the required finding of  
9       emergency, the statement of scope shall cite the act number and section or the statute  
10      section authorizing the promulgation of an emergency rule or a statement that the  
11      rule is promulgated at the direction of the joint committee for review of  
12      administrative rules under s. 227.26 (2) (b). The agency shall also include a  
13      statement as to whether the agency will promulgate a corresponding permanent rule  
14      and the agency's anticipated time line for promulgating the permanent rule.

15          **SECTION 135.** 227.135 (2) of the statutes is renumbered 227.135 (2) (a) 1. and  
16      amended to read:

17          227.135 (2) (a) 1. ~~An~~ Except as provided in subd. 2., an agency that has  
18      prepared a statement of the scope of the proposed rule shall present the statement  
19      to the department of administration, which shall make a determination as to  
20      whether the agency has the explicit authority to promulgate the rule as proposed in  
21      the statement of scope and shall report the statement of scope and its determination

1 to the governor who, in his or her discretion, may approve or reject the statement of  
2 scope. The Except as provided in subd. 2., the agency may not send the statement  
3 to the legislative reference bureau for publication under sub. (3) until the governor  
4 issues a written notice of approval of the statement. <sup>INS</sup> 80-4 (from next page)

5 (b) The An agency that has prepared a statement of the scope of the proposed  
6 rule shall also present the statement to the individual or body with policy-making  
7 powers over the subject matter of the proposed rule for approval. The individual or  
8 body with policy-making powers may not approve the statement until at least 10  
9 days after publication of the statement under sub. (3) and, if a preliminary public  
10 hearing and comment period are held by the agency under s. 227.136, until the  
11 individual or body has received and reviewed any public comments and feedback  
12 received from the agency under s. 227.136 (5).

13 (c) No state employee or official may perform any activity in connection with  
14 the drafting of a proposed rule, except for an activity necessary to prepare the  
15 statement of the scope of the proposed rule, until the governor and the individual or  
16 body with policy-making powers over the subject matter of the proposed rule  
17 approve the statement has been approved as required under pars. (a) and (b). This  
18 subsection paragraph does not prohibit an agency from performing an activity  
19 necessary to prepare a petition and proposed rule for submission under s. 227.26 (4).

20 **SECTION 136.** 227.135 (2) of the statutes is amended to read:

21 227.135 (2) An agency that has prepared a statement of the scope of the  
22 proposed rule shall present the statement to the department of administration,  
23 which shall make a determination as to whether the agency has the explicit  
24 authority to promulgate the rule as proposed in the statement of scope and shall  
25 report the statement of scope and its determination to the governor who, in his or her



1 discretion, may approve or reject the statement of scope. The agency may not send  
2 the statement to the legislative reference bureau for publication under sub. (3) until  
3 the governor issues a written notice of approval of the statement and may not,  
4 without the written approval of the governor, send the statement to the legislative  
5 reference bureau for publication under sub. (3) more than 30 days after the date of  
6 the governor's approval of the statement of scope. The agency shall also present the  
7 statement to the individual or body with policy-making powers over the subject  
8 matter of the proposed rule for approval. The individual or body with policy-making  
9 powers may not approve the statement until at least 10 days after publication of the  
10 statement under sub. (3) and, if a preliminary public hearing and comment period  
11 are held by the agency under s. 227.136, until the individual or body has received and  
12 reviewed any public comments and feedback received from the agency under s.  
13 227.136 (5). No state employee or official may perform any activity in connection  
14 with the drafting of a proposed rule, except for an activity necessary to prepare the  
15 statement of the scope of the proposed rule until the governor and the individual or  
16 body with policy-making powers over the subject matter of the proposed rule  
17 approve the statement. This subsection does not prohibit an agency from performing  
18 an activity necessary to prepare a petition and proposed rule for submission under  
19 s. 227.26 (4).

20 **SECTION 137.** 227.135 (2) (a) 2. of the statutes is created to read:

21 227.135 (2) (a) 2. The requirement under subd. 1. does not apply to statements  
22 of scope prepared by the department of public instruction.

23 **SECTION 138.** 227.135 (3) of the statutes is amended to read:

24 227.135 (3) ~~If the governor approves a~~ An agency that prepares a statement  
25 of the scope of a proposed rule under sub. (2), the agency (1) shall, subject to sub. (2)

.....  
**SECTION 138**

1     (a) 1., send an electronic copy of the statement to the legislative reference bureau,  
2     in a format approved by the legislative reference bureau, for publication in the  
3     register. On the same day that the agency sends the statement to the legislative  
4     reference bureau, the agency shall send a copy of the statement to the secretary of  
5     administration and to the chief clerks of each house of the legislature, who shall  
6     distribute the statement to the cochairpersons of the joint committee for review of  
7     administrative rules. The agency shall include with any statement of scope sent to  
8     the legislative reference bureau the date of the governor's approval of the statement  
9     of scope if such approval is required under sub. (2) (a). The legislative reference  
10    bureau shall assign a discrete identifying number to each statement of scope and  
11    shall include that number and the date of the governor's approval, if required, in the  
12    publication of the statement of scope in the register.

13       **SECTION 139.** 227.135 (4) of the statutes is renumbered 227.135 (4) (a) (intro.)  
14    and amended to read:

15       227.135 (4) (a) (intro.) If at any time after a statement of the scope of a proposed  
16    rule is approved under sub. (2) the agency changes the scope of the proposed rule in  
17    any meaningful or measurable way, ~~including changing the scope of the proposed~~  
18    ~~rule so as to include in the scope any activity, business, material, or product that is~~  
19    ~~not specifically included in the original scope of the proposed rule,~~ the agency shall  
20    prepare and obtain approval of a revised statement of the scope of the proposed rule  
21    in the same manner as the original statement was prepared and approved under  
22    subs. (1) and (2). ~~No~~ For purposes of this subsection, a meaningful or measurable  
23    change includes any of the following:

24       (b) Whenever an agency is required to prepare a revised statement of scope  
25    under this subsection, no state employee or official may perform any activity in

1 connection with the drafting of the proposed rule except for an activity necessary to  
2 prepare the revised statement of the scope of the proposed rule until the revised  
3 statement is so approved as provided in sub. (2).

4 **SECTION 140.** 227.135 (4) (a) 1. to 6. of the statutes are created to read:

5 227.135 (4) (a) 1. A change to the objectives of the proposed rule.

6 2. A change to the basis and purpose of the proposed rule.

7 3. A change to the policies to be included in the proposed rule.

8 4. A change to the entities affected by the proposed rule.

9 5. A change to the overall breadth or scope of the regulation in the proposed  
10 rule.

11 6. A change to the scope of the proposed rule so as to include in the scope any  
12 activity, business, material, or product that is not specifically included in the original  
13 statement.

14 **SECTION 141.** 227.135 (6) of the statutes is created to read:

15 227.135 (6) An agency that intends to concurrently promulgate an emergency  
16 rule and a permanent rule that are identical in substance may submit one statement  
17 of scope indicating this intent.

18 **SECTION 142.** 227.137 (2) of the statutes is amended to read:

19 227.137 (2) An agency shall prepare an economic impact analysis for a  
20 proposed rule before submitting the proposed rule to the legislative council staff  
21 under s. 227.15. Prior to preparing an economic impact analysis as provided in this  
22 subsection, the agency shall review the statement of scope for the proposed rule  
23 prepared under s. 227.135 to determine whether a revised statement of scope is  
24 required under s. 227.135 (4).

25 **SECTION 143.** 227.137 (2m) of the statutes is created to read:

1           227.137 (2m) An agency's economic impact analysis under sub. (2) or revised  
2           economic impact analysis under sub. (4) shall be prepared and submitted separately  
3           from any fiscal estimate or revised fiscal estimate prepared and submitted under s.  
4           227.14 (4) (a) or (d).

      \*\*\*\*NOTE: Currently, I believe, agencies typically prepare EIAs and fiscal estimates  
for rules using a single, combined form designed by DOA. This language would prohibit  
the use of a combined form going forward.

5           **SECTION 144.** 227.137 (3) (e) of the statutes is renumbered 227.137 (3) (e)  
6           (intro.) and amended to read:

7           227.137 (3) (e) (intro.) A determination made in consultation with the  
8           businesses, local governmental units, and individuals that may be affected by the  
9           proposed rule as to whether the proposed rule would adversely affect in a material  
10          way the economy, a sector of the economy, productivity, jobs, or the overall economic  
11          competitiveness of this state. The agency shall make the determination required  
12          under this paragraph by doing all of the following:

13          **SECTION 145.** 227.137 (3) (e) 1. to 4. of the statutes are created to read:

14          227.137 (3) (e) 1. Compiling a list of affected persons and potential economic  
15          concerns identified in the comments solicited by the agency.

16          2. Contacting affected persons to discuss economic concerns.

17          3. Considering any raised concerns in drafting the economic impact analysis.

18          4. Documenting in the economic impact analysis the persons who were  
19          consulted and whether the agency's determination is disputed by any of the affected  
20          persons.

21          **SECTION 146.** 227.137 (3m) of the statutes is created to read:

22          227.137 (3m) (a) When soliciting comments under sub. (3) for an economic  
23          impact analysis, an agency shall accept comments for a period of at least 14 calendar

1 days if, under s. 227.135 (1) (g), the statement of scope for the proposed rule indicates  
2 that the proposed rule will have minimal or no economic impact, at least 30 calendar  
3 days if it indicates a moderate economic impact, and at least 60 calendar days if it  
4 indicates a significant economic impact or if the agency anticipates that the proposed  
5 rule will result in \$10,000,000 or more in implementation and compliance costs being  
6 incurred by or passed along to businesses, local governmental units, and individuals  
7 over any 2-year period. If the agency subsequently determines that the anticipated  
8 economic impact will be greater than indicated in the statement of scope, the agency  
9 shall adjust the comment period accordingly. An agency may not reduce a comment  
10 period once determined under this subsection.

11 (b) This subsection does not apply to a person preparing an independent  
12 economic impact analysis under sub. (4m).

13 **SECTION 147.** 227.137 (4) of the statutes is amended to read:

14 227.137 (4) On the same day that the agency submits the economic impact  
15 analysis to the legislative council staff under s. 227.15 (1), the agency shall also  
16 submit that analysis to the department of administration, to the governor, and to the  
17 chief clerks of each house of the legislature, who shall distribute the analysis to the  
18 presiding officers of their respective houses, to the chairpersons of the appropriate  
19 standing committees of their respective houses, as designated by those presiding  
20 officers, and to the cochairpersons of the joint committee for review of administrative  
21 rules. If a proposed rule is modified after the economic impact analysis is submitted  
22 under this subsection so that the economic impact of the proposed rule is  
23 significantly changed, the agency shall prepare a revised economic impact analysis  
24 for the proposed rule as modified. For purposes of this subsection, a significant  
25 change includes an increase or a decrease of at least 10 percent or \$50,000, whichever

1 is greater, in the expected implementation and compliance costs reasonably expected  
2 to be incurred by or passed along to a majority of the businesses, local governmental  
3 units, and individuals as a result of the proposed rule, as identified under sub. (3) (b),  
4 or a significant change in the persons expected to be affected by the proposed rule.

5 A revised economic impact analysis shall be prepared and submitted in the same  
6 manner as an original economic impact analysis is prepared and submitted.

7 **SECTION 148.** 227.138 (1) (intro.) of the statutes is renumbered 227.138 (1) and  
8 amended to read:

9 227.138 (1) The joint committee for review of administrative rules may direct  
10 an agency to prepare a retrospective economic impact analysis for any of an agency's  
11 rules that are published in the code. The committee may identify one or more specific  
12 chapters, sections, or other subunits in the code that are administered by the agency  
13 as the rules that are to be the subject of the analysis and may specify a deadline for  
14 the preparation of the analysis.

15 **(1r)** A retrospective economic impact analysis shall contain information on the  
16 economic effect of the rules on specific businesses, business sectors, public utility  
17 ratepayers, local governmental units, and the state's economy as a whole. When  
18 preparing the analysis, the agency or person preparing the analysis shall solicit  
19 information and advice from businesses, associations representing businesses, local  
20 governmental units, and individuals that have been affected by the rules. The  
21 agency or person shall prepare the retrospective economic impact analysis in  
22 coordination with local governmental units that have been affected by the rules. The  
23 agency or person may request information that is reasonably necessary for the  
24 preparation of a retrospective economic impact analysis from other businesses,

1 associations, local governmental units, and individuals and from other agencies.

2 The retrospective economic impact analysis shall include all of the following:

3 **SECTION 149.** 227.138 (1) (a) to (h) of the statutes are renumbered 227.138 (1r)  
4 (a) to (h).

5 **SECTION 150.** 227.138 (1g) of the statutes is created to read:

6 227.138 (1g) Within 90 days after an agency submits a retrospective economic  
7 impact analysis under sub. (2), either cochairperson of the joint committee for review  
8 of administrative rules may request an independent retrospective economic impact  
9 analysis to be prepared using the same procedure and payment methods described  
10 under s. 227.137 (4m) (am) and (b). A person preparing an independent retrospective  
11 economic impact analysis under this subsection shall prepare the independent  
12 retrospective economic impact analysis for the same rules that were the subject of  
13 the agency's analysis under sub. (1) and shall include the information that is  
14 required under sub. (1r).

15 **SECTION 151.** 227.138 (2) of the statutes is amended to read:

16 227.138 (2) An agency or person that prepares a retrospective economic impact  
17 analysis under sub. (1) or (1g) shall submit that analysis to the department of  
18 administration, to the governor, and to the chief clerks of each house of the  
19 legislature, who shall distribute the analysis to the presiding officers of their  
20 respective houses, to the chairpersons of the appropriate standing committees of  
21 their respective houses, as designated by those presiding officers, and to the  
22 cochairpersons of the joint committee for review of administrative rules. The agency  
23 or person shall also send an electronic copy of the analysis to the legislative reference  
24 bureau, in a format approved by the legislative reference bureau, for publication in  
25 the register.

1           **SECTION 152.** 227.18 (3m) of the statutes is created to read:

2           227.18 (3m) If, after holding a hearing under this section, an agency makes any  
3 changes to the proposed rule, the agency shall do all of the following:

4           (a) Review the statement of scope of the proposed rule prepared under s.  
5 227.135 to determine whether a revised statement of scope is required under s.  
6 227.135 (4).

7           (b) Review the economic impact analysis for the proposed rule prepared under  
8 s. 227.137 to determine whether a revised economic impact analysis is required  
9 under s. 227.137 (4).

10          **SECTION 153.** 227.185 of the statutes is amended to read:

11          **227.185 Approval by governor.** After a proposed rule is in final draft form,  
12 the agency shall submit the proposed rule to the governor for approval. The governor,  
13 in his or her discretion, may approve or reject the proposed rule. If the governor  
14 approves a proposed rule, the governor shall provide the agency with a written notice  
15 of that approval. No proposed rule may be submitted to the legislature for review  
16 under s. 227.19 (2) unless the governor has approved the proposed rule in writing.  
17 The agency shall notify the joint committee for review of administrative rules  
18 whenever it submits a proposed rule for approval under this section. This section  
19 does not apply to proposed rules prepared by the department of public instruction.

20          **SECTION 154.** 227.20 (3) (a) of the statutes is amended to read:

21          227.20 (3) (a) That the rule was ~~duly~~ promulgated by the agency.

22          **SECTION 155.** 227.20 (3) (c) of the statutes is repealed.

      \*\*\*\*NOTE: The presumptions in this section were addressed and discussed in the  
case *Wisconsin Realtors Association v. Public Service Commission of Wisconsin*, 2015 WI  
63, specifically in paragraphs 66 and 67 and footnote 26.

23          **SECTION 156.** 227.24 (1) (e) 1d. of the statutes is amended to read:



1           227.24 (1) (e) 1d. Prepare a statement of the scope of the proposed emergency  
2 rule as provided in s. 227.135 (1), obtain approval of the statement as provided in s.  
3 227.135 (2), send the statement to the legislative reference bureau for publication in  
4 the register as provided in s. 227.135 (3), and hold a preliminary public hearing and  
5 comment period if directed under s. 227.136 (1). If the agency changes the scope of  
6 a proposed emergency rule as described in s. 227.135 (4), the agency shall prepare  
7 and obtain approval of a revised statement of the scope of the proposed emergency  
8 rule as provided in s. 227.135 (4). No state employee or official may perform any  
9 activity in connection with the drafting of a proposed emergency rule, except for an  
10 activity necessary to prepare the statement of the scope of the proposed emergency  
11 rule, until the governor approves the statement, if such approval is required, and the  
12 individual or body with policy-making powers over the subject matter of the  
13 proposed emergency rule ~~approve~~ approves the statement.

14           **SECTION 157.** 227.24 (1) (e) 1g. of the statutes is amended to read:

15           227.24 (1) (e) 1g. Submit the proposed emergency rule in final draft form to the  
16 governor for approval. The governor, in his or her discretion, may approve or reject  
17 the proposed emergency rule. If the governor approves a proposed emergency rule,  
18 the governor shall provide the agency with a written notice of that approval. An  
19 agency may not file an emergency rule with the legislative reference bureau as  
20 provided in s. 227.20 and an emergency rule may not be published until the governor  
21 approves the emergency rule in writing. This subdivision does not apply to proposed  
22 emergency rules of the department of public instruction.

23           **SECTION 158.** 227.26 (2) (im) of the statutes is created to read:

1           227.26 (2) (im) *Multiple suspensions.* Notwithstanding pars. (i) and (j), the  
2 committee may act to suspend a rule as provided under this subsection multiple  
3 times.

4           **SECTION 159.** 227.40 (1) of the statutes is amended to read:

5           227.40 (1) Except as provided in sub. (2), the exclusive means of judicial review  
6 of the validity of a rule or guidance document shall be an action for declaratory  
7 judgment as to the validity of the rule or guidance document brought in the circuit  
8 court for the county where the party asserting the invalidity of the rule or guidance  
9 document resides or has its principal place of business or, if that party is a  
10 nonresident or does not have its principal place of business in this state, in the circuit  
11 court for the county where the dispute arose. The officer or other agency whose rule  
12 or guidance document is involved shall be the party defendant. The summons in the  
13 action shall be served as provided in s. 801.11 (3) and by delivering a copy to that  
14 officer or, if the agency is composed of more than one person, to the secretary or clerk  
15 of the agency or to any member of the agency. The court shall render a declaratory  
16 judgment in the action only when it appears from the complaint and the supporting  
17 evidence that the rule or guidance document or its threatened application interferes  
18 with or impairs, or threatens to interfere with or impair, the legal rights and  
19 privileges of the plaintiff. A declaratory judgment may be rendered whether or not  
20 the plaintiff has first requested the agency to pass upon the validity of the rule or  
21 guidance document in question.

22           **SECTION 160.** 227.40 (2) (intro.) of the statutes is amended to read:

23           227.40 (2) (intro.) The validity of a rule or guidance document may be  
24 determined in any of the following judicial proceedings when material therein:

25           **SECTION 161.** 227.40 (2) (e) of the statutes is amended to read:

1           227.40 (2) (e) Proceedings under s. 66.191, 1981 stats., or s. 40.65 (2), 106.50,  
2           106.52, 303.07 (7) or 303.21 or ss. 227.52 to 227.58 or under ch. 102, 108 or 949 for  
3           review of decisions and orders of administrative agencies if the validity of the rule  
4           or guidance document involved was duly challenged in the proceeding before the  
5           agency in which the order or decision sought to be reviewed was made or entered.

6           **SECTION 162.** 227.40 (3) (intro.) of the statutes is renumbered 227.40 (3) (ag)  
7           and amended to read:

8           227.40 (3) (ag) In any judicial proceeding other than one ~~set out above~~ under  
9           sub. (1) or (2), in which the invalidity of a rule or guidance document is material to  
10          the cause of action or any defense thereto, the assertion of ~~such that~~ that invalidity shall  
11          be set forth in the pleading of the party ~~so~~ maintaining the invalidity of ~~such the~~ the rule  
12          or guidance document in that proceeding. The party ~~so~~ asserting the invalidity of  
13          ~~such the~~ the rule or guidance document shall, within 30 days after the service of the  
14          pleading in which the party sets forth ~~such the~~ the invalidity, apply to the court in which  
15          ~~such the~~ the proceedings are had for an order suspending the trial of ~~said the~~ said proceeding  
16          until after a determination of the validity of ~~said the~~ said rule or guidance document in  
17          an action for declaratory judgment under sub. (1) hereof.

18          **SECTION 163.** 227.40 (3) (a) of the statutes is renumbered 227.40 (3) (ar) and  
19          amended to read:

20          227.40 (3) (ar) Upon the hearing of ~~such the~~ the application, if the court is satisfied  
21          that the validity of ~~such the~~ the rule or guidance document is material to the issues of  
22          the case, an order shall be entered staying the trial of said proceeding until the  
23          rendition of a final declaratory judgment in proceedings to be instituted forthwith  
24          by the party asserting the invalidity of ~~such the~~ the rule or guidance document. If the

.....  
**SECTION 163**

1 court shall find finds that the asserted invalidity of a the rule or guidance document  
2 is not material to the case, an order shall be entered denying the application for stay.

3 **SECTION 164.** 227.40 (3) (b) and (c) of the statutes are amended to read:

4 227.40 (3) (b) Upon the entry of a final order in said the declaratory judgment  
5 action, it shall be the duty of the party who asserts the invalidity of the rule or  
6 guidance document to formally advise the court of the outcome of the declaratory  
7 judgment action so brought as ordered by the court. After the final disposition of the  
8 declaratory judgment action the court shall be bound by and apply the judgment so  
9 entered in the trial of the proceeding in which the invalidity of the rule or guidance  
10 document is asserted.

11 (c) Failure to set forth the invalidity of a rule or guidance document in a  
12 pleading or to commence a declaratory judgment proceeding within a reasonable  
13 time pursuant to ~~such~~ the order of the court or to prosecute ~~such~~ the declaratory  
14 judgment action without undue delay shall preclude ~~such~~ the party from asserting  
15 or maintaining ~~such~~ that the rule or guidance document is invalid.

16 **SECTION 165.** 227.40 (4) (a) of the statutes is amended to read:

17 227.40 (4) (a) In any proceeding pursuant to this section for judicial review of  
18 a rule or guidance document, the court shall declare the rule or guidance document  
19 invalid if it finds that it violates constitutional provisions or exceeds the statutory  
20 authority of the agency or was promulgated or adopted without compliance with  
21 statutory rule-making or adoption procedures.

22 **SECTION 166.** 227.40 (6) of the statutes is amended to read:

23 227.40 (6) Upon entry of a final order in a declaratory judgment action under  
24 sub. (1) with respect to a rule, the court shall send an electronic notice to the  
25 legislative reference bureau of the court's determination as to the validity or

1     invalidity of the rule, in a format approved by the legislative reference bureau, and  
2     the legislative reference bureau shall publish a notice of that determination in the  
3     Wisconsin administrative register under s. 35.93 (2) and insert an annotation of that  
4     determination in the Wisconsin administrative code under s. 13.92 (4) (a).

5           **SECTION 167.** 227.46 (1) (h) of the statutes is amended to read:

6           227.46 (1) (h) ~~Make or recommend~~ Recommend findings of fact, conclusions of  
7     law and decisions to the extent permitted by law.

8           **SECTION 168.** 227.46 (2) of the statutes is amended to read:

9           227.46 (2) Except as provided in sub. (2m) and s. 227.47 (2), in any contested  
10     case which is a class 2 or class 3 proceeding, where a majority of the officials of the  
11     agency who are to render the final decision are not present for the hearing, the  
12     hearing examiner presiding at the hearing shall prepare a proposed decision,  
13     including findings of fact, conclusions of law, order and opinion, in a form that may  
14     be adopted by the agency as the final decision in the case under s. 227.47 (3). The  
15     proposed decision shall be a part of the record and shall be served by the agency on  
16     all parties. Each party adversely affected by the proposed decision shall be given an  
17     opportunity to file objections to the proposed decision, briefly stating the reasons and  
18     authorities for each objection, and to argue with respect to them before the officials  
19     who are to participate in the decision. The agency may direct whether such  
20     argument shall be written or oral. If an agency's decision varies in any respect from  
21     the proposed decision of the hearing examiner, the agency's decision shall include an  
22     explanation of the basis for each variance.

23           **SECTION 169.** 227.46 (2m) of the statutes is amended to read:

24           227.46 (2m) In any hearing or review assigned to a hearing examiner under  
25     s. 227.43 (1) (bg), the hearing examiner presiding at the hearing shall prepare a

1 proposed decision, including findings of fact, conclusions of law, order and opinion,  
2 in a form that may be adopted by the agency as the final decision in the case under  
3 s. 227.47 (3). The proposed decision shall be a part of the record and shall be served  
4 by the division of hearings and appeals in the department of administration on all  
5 parties. Each party adversely affected by the proposed decision shall be given an  
6 opportunity to file objections to the proposed decision within 15 days, briefly stating  
7 the reasons and authorities for each objection, and to argue with respect to them  
8 before the administrator of the division of hearings and appeals. The administrator  
9 of the division of hearings and appeals may direct whether such argument shall be  
10 written or oral. If the decision of the administrator of the division of hearings and  
11 appeals varies in any respect from the proposed decision of the hearing examiner, the  
12 decision of the administrator of the division of hearings and appeals shall include an  
13 explanation of the basis for each variance. The decision of the administrator of the  
14 division of hearings and appeals is a final decision of the agency subject to judicial  
15 review under s. 227.52. The department of transportation may petition for judicial  
16 review.

17 **SECTION 170.** 227.46 (3) (a) of the statutes is repealed.

\*\*\*\*NOTE: I repealed this as this provision appeared to conflict with your stated intent of allowing agencies to simply adopt hearing examiner decisions. I believe some agencies do in fact have rules or practices under this provision whereby a hearing examiner's decision is considered to be the agency's and this would require a change to those practices.

18 **SECTION 171.** 227.46 (8) of the statutes is repealed.

\*\*\*\*NOTE: This provision allows DNR and DOT to file a petition for judicial review of a decision in a contested case hearing. I have removed it in this draft because we are requiring the agency to always make its own final decision, and it would no longer seem to make as much sense for the agency to appeal the decision. Is this OK?

19 **SECTION 172.** 227.47 (1) of the statutes is amended to read:

1           227.47 (1) Except as provided in sub. (2), every proposed ~~or final~~ decision of an  
2       ~~agency or a~~ hearing examiner following a hearing and every final decision of an  
3       agency shall be in writing accompanied by findings of fact and conclusions of law.  
4       The findings of fact shall consist of a concise and separate statement of the ultimate  
5       conclusions upon each material issue of fact without recital of evidence. Every  
6       proposed or final decision shall include a list of the names and addresses of all  
7       persons who appeared before the agency in the proceeding who are considered  
8       parties for purposes of review under s. 227.53. The agency shall by rule establish a  
9       procedure for determination of parties.

10           **SECTION 173.** 227.47 (3) of the statutes is created to read:

11           227.47 (3) Every final decision of an agency in a contested case shall be  
12       approved, signed, and dated by the agency head and shall include a signed  
13       certification stating as follows: "I hereby certify that this decision complies with the  
14       requirements of chapter 227 of the Wisconsin Statutes and constitutes the final  
15       agency action in this matter. I further certify that this decision contains no standard,  
16       requirement, or threshold that is not explicitly required or explicitly permitted by  
17       statute or a rule that has been lawfully promulgated and that this decision contains  
18       no standard, requirement, or threshold that is more restrictive than a standard,  
19       requirement, or threshold contained in the Wisconsin Statutes."

20           **SECTION 174.** 227.57 (11) of the statutes is amended to read:

21           227.57 (11) Upon review of an agency action or decision ~~affecting a property~~  
22       ~~owner's use of the property owner's property~~, the court shall accord no deference to  
23       the agency's interpretation of law if ~~the agency action or decision restricts the~~  
24       ~~property owner's free use of the property owner's property.~~

25           **SECTION 175.** 230.08 (2) (sb) of the statutes is repealed.

## SECTION 176

1           **SECTION 176.** 238.02 (1) of the statutes is amended to read:

2           238.02 (1) There is created an authority, which is a public body corporate and  
3           politic, to be known as the "Wisconsin Economic Development Corporation." The  
4           members of the board shall consist of 6 members nominated by the governor, and  
5           with the advice and consent of the senate appointed, to serve at the pleasure of the  
6           governor; ~~3~~ 5 members appointed by the speaker of the assembly, ~~consisting of one~~  
7           ~~majority and one minority party representative to the assembly, appointed as are the~~  
8           ~~members of standing committees in the assembly, and one person employed in the~~  
9           ~~private sector, to serve at the speaker's pleasure; and 3~~ 4-year terms; one member  
10          appointed by the minority leader of the assembly to serve a 4-year term; 5 members  
11          appointed by the senate majority leader, ~~consisting of one majority and one minority~~  
12          ~~party senator, appointed as are members of standing committees in the senate, and~~  
13          ~~one person employed in the private sector, to serve at the majority leader's pleasure~~  
14          4-year terms; and one member appointed by the minority leader of the senate to  
15          serve a 4-year term. The secretary of administration and the secretary of revenue  
16          shall also serve on the board as nonvoting members. The board shall elect a  
17          chairperson from among its nonlegislative voting members. A vacancy on the board  
18          shall be filled in the same manner as the original appointment to the board for the  
19          remainder of the unexpired term, if any.

20          **SECTION 177.** 238.02 (2) of the statutes is amended to read:

21          238.02 (2) A majority of the ~~voting~~ appointed members of the board currently  
22          serving constitutes a quorum for the purpose of conducting its business and  
23          exercising its powers and for all other purposes, ~~notwithstanding the existence of any~~  
24          ~~vacancies.~~ Action may be taken by the board upon a vote of a majority of the ~~voting~~  
25          appointed members present.



1           **SECTION 178.** 238.02 (3) of the statutes is amended to read:

2           238.02 (3) A chief executive officer shall be nominated by the ~~governor~~ board,  
3 and with the advice and consent of the senate appointed, to serve at the pleasure of  
4 the ~~governor~~ board. The board may delegate to the chief executive officer any powers  
5 and duties the board considers proper. The chief executive officer shall receive such  
6 compensation as may be determined by the board.

7           **SECTION 179.** 238.04 (15) of the statutes is created to read:

8           238.04 (15) Notwithstanding s. 230.06 (1) (b), exercise direct supervision of the  
9 economic development liaison project position created in 2017 Wisconsin Act 58,  
10 section 61 (1).

11           **SECTION 180.** 238.399 (3) (a) of the statutes is amended to read:

12           238.399 (3) (a) The corporation may designate ~~not more than 30~~ any number  
13 of enterprise zones in this state.

14           **SECTION 181.** 238.399 (3) (am) of the statutes is created to read:

15           238.399 (3) (am) The corporation may not designate a new enterprise zone  
16 under par. (a) except as follows:

17           1. Before the corporation designates a new enterprise zone, the corporation  
18 shall notify the joint committee on finance in writing of the corporation's intention  
19 to designate a new enterprise zone. The notice shall describe the new zone and the  
20 purposes for which the corporation proposes to designate the new zone.

21           2. If, within 14 working days after the date of the corporation's notice under  
22 subd. 1., the cochairpersons of the joint committee on finance do not notify the  
23 corporation that the committee has scheduled a meeting to review the corporation's  
24 proposal, the corporation may designate the new enterprise zone as proposed in the  
25 corporation's notice. If, within 14 working days after the date of the corporation's

Appoint and

Supervise

**SECTION 181**

1 notice under subd. 1., the cochairpersons of the committee notify the corporation that  
2 the committee has scheduled a meeting to review the corporation's proposal, the  
3 corporation may designate the new enterprise zone only upon approval of the  
4 committee.

5 **SECTION 182.** 238.399 (3) (e) of the statutes is repealed.

6 **SECTION 183.** 281.665 (5) (d) of the statutes is amended to read:

7 281.665 (5) (d) Notwithstanding pars. (a) to (c), during the 2017-19 and  
8 2019-21 fiscal biennium bienniums, the department shall consider an applicant to  
9 be eligible for a cost-sharing grant for a project under this section if the project is  
10 funded or executed in whole or in part by the U.S. army corps of engineers under 33  
11 USC 701s.

12 **SECTION 184.** 301.03 (16) of the statutes is created to read:

13 301.03 (16) At the request of the legislature, submit to the legislature under  
14 s. 13.172 (2) a report that includes the following information and post the report on  
15 the department's website:

16 (a) If, since the previous report was submitted or during a date range specified  
17 in the request, an individual was pardoned for a crime or was released from a term  
18 of imprisonment without completing his or her sentence, the name of the individual,  
19 the pertinent crime, and the name of the person who authorized the action.

20 (b) If an individual who appears on a report submitted under this subsection  
21 is convicted of a crime, the name of that individual and the crime for which he or she  
22 was convicted.

23 **SECTION 185.** 343.165 (8) of the statutes is created to read:

1           343.165 (8) Notwithstanding subs. (1) to (4), for an applicant requesting that  
2           an identification card be provided without charge for purposes of voting, all of the  
3           following apply:

4           (a) Except as provided in par. (b), if a person is unable to provide proof of name  
5           and date of birth, and the documents are unavailable to the person, the person may  
6           make a written petition to the department for an exception to the requirements of  
7           sub. (1) (a) or (b). The application shall include proof of identity and all of the  
8           following:

9           1. A certification of the person's name, date of birth, and current residence  
10          street address on the department's form.

11          2. An explanation of the circumstances by which the person is unable to provide  
12          proof of name and date of birth.

13          3. Whatever documentation is available that states the person's name and date  
14          of birth.

15          (b) 1. If a person applies for and requests an identification card without charge  
16          for the purposes of voting and the person's proof of name and date of birth or of proof  
17          of citizenship, legal permanent resident status, conditional resident status, or legal  
18          presence is unavailable, the person may make a written petition to the department  
19          for an exception to the requirement for which proof is unavailable. The department  
20          shall provide appropriate translation for any person who is unable to read or  
21          understand the petition process instructions and related communications under this  
22          subsection or s. 343.50 (1) (c) 2. The petition shall include the person's statement  
23          under oath or affirmation of all of the following:

1           a. That the person is unable to provide proof of name and date of birth or proof  
2 of citizenship, legal permanent resident status, conditional resident status, or legal  
3 presence.

4           b. That the documents are unavailable to the person.

5           c. His or her name, date of birth, place of birth, and such other birth record  
6 information requested by the department, or the person's alien or U.S. citizenship  
7 and immigration service number or U.S. citizenship certificate number.

8           2. Upon receiving a petition that meets the requirements under subd. 1., the  
9 department of transportation shall forward the petition to the central office of its  
10 division of motor vehicles for processing. The department of transportation shall  
11 provide the person's birth record information to the department of health services,  
12 for the sole purpose of verification by the department of health services of the  
13 person's birth certificate information or the equivalent document from another  
14 jurisdiction, other than a province of the Dominion of Canada, or to a federal agency  
15 for the sole purpose of verifying the person's certificate of birth abroad issued by the  
16 federal department of state, or of verifying the person's alien or U.S. citizenship and  
17 immigration service number or U.S. citizenship certificate number. The department  
18 of transportation shall open a file containing the petition and shall create therein a  
19 report with a dated record of events, including all communication to or with the  
20 applicant. The department of transportation may not complete processing of the  
21 application prior to receiving verification under this subdivision, except as provided  
22 in subd. 3.

23           3. If the department does not receive verification under subd. 2. within 30 days  
24 or receives notice under subd. 2. that the birth information provided in the  
25 application does not match that of the birth record custodian, the department shall

1 promptly notify the person in writing of that failure to verify and request the person  
2 contact the department within 10 days. If the person does not respond within 10  
3 days, the department shall send the person a 2nd letter with substantially similar  
4 contents. If the person does not respond to the 2nd letter within 10 days and the  
5 department knows the person's telephone number, the department shall call the  
6 person on the telephone and notify the person that the birth information was not  
7 verified and request the person provide additional information within 10 days. If 30  
8 days have elapsed since the date of the first letter sent under this subdivision without  
9 contact from the person, the department shall suspend the investigation and send  
10 written notice that the person has not responded, that the department has no further  
11 leads for it to locate or obtain secondary documentation or verification of birth  
12 information, that the department has suspended its investigation or research until  
13 such time as the person contacts the department, and that if within 180 days after  
14 the date of the written notice the person fails to contact the department the petition  
15 will be denied and no further identification card receipts will be issued under s.  
16 343.50 (1) (c) 2. If the person fails to contact the department within 180 days after  
17 the department suspends the investigation, the department shall deny the petition  
18 in writing and shall inform the person that the department will resume the  
19 investigation if the person contacts the department to discuss the petition.  
20 Whenever the applicant contacts the department to discuss the petition, the  
21 investigation under this subdivision shall begin anew, notwithstanding any prior  
22 denial due to the person's failure to timely respond. The applicant shall act in good  
23 faith and use reasonable efforts to provide additional information that could  
24 reasonably lead the department to discover correct birth information or secondary  
25 documentation as described in subd. 3g., to assist the department in processing the

1 application. The department shall investigate the petition and any additional  
2 information provided under this subdivision with prompt and due diligence and shall  
3 use reasonable efforts to locate and obtain the secondary documentation by pursuing  
4 leads provided by the person. Investigations may only be completed within the  
5 division of motor vehicles' central office by employees whose regular job duties  
6 include investigation and fraud detection and prevention. If the investigation  
7 discovers new or corrected birth information, the department of transportation shall  
8 resubmit the new or corrected birth information to the department of health services  
9 for verification under subd. 2. The department of transportation shall pay any  
10 actual, necessary fees required by the record custodian to obtain the secondary  
11 documentation.

12 3g. If the department of health services does not verify the birth record  
13 information within 30 days, the department of transportation may issue an  
14 identification card to the person only if the department of transportation receives  
15 verification under subd. 2., if the person provides proof of name and date of birth or  
16 proof of citizenship, legal permanent resident status, conditional resident status or  
17 legal presence, or if the department of transportation receives other secondary  
18 documentation acceptable to the department of transportation and deemed  
19 sufficient under subd. 3., which may include the following:

- 20 a. Baptismal certificate.
- 21 b. Hospital birth certificate.
- 22 c. Delayed birth certificate.
- 23 d. Census record.
- 24 e. Early school record.
- 25 f. Family Bible record.

1           g. Doctor's record of post-natal care.

2           h. Other documentation deemed acceptable to the department of  
3 transportation, within the department's reasonable discretion.

4           4. In this paragraph, "proof of citizenship, legal permanent resident status,  
5 conditional resident status or legal presence" means any of the following:

6           a. A U.S. state or local government issued certificate of birth.

7           b. Valid U.S. passport.

8           c. Valid foreign passport with appropriate immigration documents, which shall  
9 include or be accompanied by federal form I-94, arrival and departure record.

10          d. Certificate of U.S. citizenship.

11          e. A U.S. Certificate of naturalization.

12          f. Valid department of homeland security/U.S. citizenship and immigration  
13 services federal form I-551, resident alien registration receipt card, issued since  
14 1997.

15          g. Valid department of homeland security/U.S. citizenship and immigration  
16 services federal form I-688, temporary resident identification card.

17          h. Valid department of homeland security/U.S. citizenship and immigration  
18 services federal form I-688B or I-766, employment authorization document.

19          i. Valid department of homeland security/U.S. citizenship and immigration  
20 services federal form I-571, refugee travel document.

21          j. Department of homeland security/U.S. citizenship and immigration services  
22 federal form I-797, notice of action.

23          k. Department of homeland security/transportation security administration  
24 transportation worker identification credential.

1           L. A U.S. department of state reception and placement program assurance  
2 form (refugee version), which shall include or be accompanied by federal form I-94,  
3 arrival and departure record.

4           m. Documentary proof specified in s. 343.14 (2) (es), that is approved by the  
5 appropriate federal authority.

6           5. In this paragraph, "proof of identity" means a supporting document  
7 identifying the person by name and bearing the person's signature, a reproduction  
8 of the person's signature, or a photograph of the person. Acceptable supporting  
9 documents include:

10           a. A valid operator's license, including a license from another jurisdiction,  
11 except a province of the Dominion of Canada, bearing a photograph of the person.

12           b. Military discharge papers.

13           c. A U.S. government and military dependent identification card.

14           d. A valid photo identification card issued by Wisconsin or another jurisdiction,  
15 except a province of the Dominion of Canada, bearing a photograph of the person.

16           e. A marriage certificate or certified copy of judgment of divorce.

17           f. A social security card issued by the social security administration.

18           g. Any document described under subd. 6., if it bears a photograph of the person  
19 and was not used as proof of name and date of birth.

20           h. Department of homeland security/transportation security administration  
21 transportation worker identification credential.

22           6. In this paragraph, "proof of name and date of birth" means any of the  
23 following:

24           a. For a person born in Wisconsin, a copy of the person's Wisconsin birth  
25 certificate issued and certified in accordance with s. 69.21.



1           b. For a person born in another jurisdiction, other than a province of the  
2     Dominion of Canada, a certified copy of his or her birth certificate or the equivalent  
3     document from that other jurisdiction or a certificate of birth abroad issued by the  
4     federal department of state.

5           c. A U.S. passport.

6           d. A valid, unexpired passport issued by a foreign country with federal I-551  
7     resident alien registration receipt card or federal I-94 arrival and departure record  
8     that bears a photograph of the person and identifies the person's first and last names,  
9     and the person's day, month, and year of birth.

10          e. A Wisconsin operator's license bearing a photograph of the person.

11          f. A Wisconsin identification card issued under s. 343.50, bearing a photograph  
12     of the person, other than an identification card issued under s. 343.50 (1) (c) 2.

13          g. A federal I-551 "permanent resident alien registration receipt card."

14          h. A federal I-94 "parole edition" or "refugees version" arrival-departure  
15     record, together with a certification, on the department's form, by the person, of the  
16     person's name and date of birth, a copy of a federal department of state refugee data  
17     center reception and placement program assurance form and a letter from the  
18     person's sponsoring agency on its letterhead, supporting the person's application for  
19     a Wisconsin identification card or operator's license and confirming the person's  
20     identification. Applicants who are unable to provide a reception and placement  
21     program assurance form may be issued a Wisconsin identification card or operator's  
22     license, but only after their identification has been confirmed by the U.S. citizenship  
23     and immigration services.

24          i. A U.S. certificate of naturalization.

25          j. A certificate of U.S. citizenship.

1 k. A federal temporary resident card or employment authorization card, I-688,  
2 I-688A, I-688B, and I-766.

3 L. A Native American identification card that is issued by a federally  
4 recognized tribe or a band of a federally recognized tribe, is issued in Wisconsin,  
5 includes a photograph and signature or reproduction of a signature of the person, and  
6 has been approved by the secretary for use as identification.

7 m. A court order under seal related to the adoption or divorce of the individual  
8 or to a name or gender change that includes the person's current full legal name, date  
9 of birth, and, in the case of a name change or divorce order, the person's prior name.

10 n. An armed forces of the U.S. common access card or DD Form 2 identification  
11 card issued to military personnel.

12 o. Department of homeland security/transportation security administration  
13 transportation worker identification credential.

14 7. In this paragraph, "unavailable" means that the applicant does not have the  
15 document and would be required to pay a government agency to obtain it.

16 (c) The administrator may delegate to the deputy administrator or to a bureau  
17 director, as described in s. 15.02 (3) (c) 2., whose regular responsibilities include  
18 driver licensing and identification card issuance, the authority to accept or reject  
19 such extraordinary proof of name, date of birth, or U.S. citizenship under this  
20 subsection.

21 (e) The denial of a petition under par. (b) is subject to judicial review in the  
22 manner provided in ch. 227 for the review of administrative decisions.

23 (f) If the administrator, or delegate described in par. (c), determines that an  
24 applicant has knowingly made a false statement or knowingly concealed a material  
25 fact or otherwise committed a fraud in an application, petition, or additional

1 information, the department shall immediately suspend the investigation, shall  
2 notify the person in writing of the suspension and the reason for the suspension, and  
3 refer any suspected fraud to law enforcement.

4 (g) A person whose petition is suspended or denied due to a failure to respond  
5 timely may revive the petition at any time by contacting the department to discuss  
6 the petition application. If a person revives a petition, the department shall  
7 immediately issue, and shall continue to reissue, an identification card receipt to the  
8 person as provided in s. 343.50 (1) (c) 2., except that the department shall first  
9 require the person to take a photograph if required under s. 343.50 (1) (c) 2.

10 (h) The department shall grant a petition if the department concludes, on the  
11 basis of secondary documentation or other corroborating information, that it is more  
12 likely than not that the name, date of birth, and U.S. citizenship provided in the  
13 application is correct.

14 **SECTION 186.** 343.50 (1) (c) of the statutes is renumbered 343.50 (1) (c) 1. and  
15 amended to read:

16 343.50 (1) (c) 1. The department may issue a receipt to any applicant for an  
17 identification card, and shall issue a receipt to an applicant requesting an  
18 identification card under sub. (5) (a) 3., which receipt shall constitute a temporary  
19 identification card while the application is being processed and shall be valid for a  
20 period not to exceed 60 days. If the application for an identification card is processed  
21 under the exception specified in s. 343.165 (7) or (8), the receipt shall include the  
22 marking specified in sub. (3) (b).

23 **SECTION 187.** 343.50 (1) (c) 2. of the statutes is created to read:

24 343.50 (1) (c) 2. If the department issues a receipt to an applicant petitioning  
25 the department under s. 343.165 (8), all of the following apply:

**SECTION 187**

1           a. The department shall issue the receipt not later than the 6th working day  
2     after the person made the petition and shall deliver the receipt by 1st class mail,  
3     except that if a petition is filed or revived within 7 days before or 2 days after a  
4     statewide election the department shall issue a receipt not later than 24 hours after  
5     the petition is filed or revived and shall deliver the receipt by overnight or next-day  
6     mail. The department shall issue a new receipt to the person not later than 10 days  
7     before the expiration date of the prior receipt, and having a date of issuance that is  
8     the same as the expiration date of the prior receipt. The department shall issue no  
9     receipt to a person after the denial of a petition under s. 343.165 (8), unless the person  
10    revives an investigation. The department shall continue to reissue identification  
11    card receipts to a person unless the department cancels the identification card  
12    receipt upon the circumstances specified in sub. (10), upon the issuance of an  
13    operator's license or identification card to the person, upon the person's request,  
14    upon the denial of the application, upon return to the department of a receipt as  
15    nondeliverable, upon the person's failure to contact the department to discuss the  
16    petition for a period of 180 days or more, or whenever the department receives  
17    information that prohibits issuance of an identification card under sub. (1) (c). The  
18    department shall require the person to take a photograph prior to reissuing an  
19    identification card receipt if the photograph of the person on file with the department  
20    is 8 or more years old.

21           b. An identification card receipt issued under this subdivision shall constitute  
22    a temporary identification card while the application is being processed under s.  
23    343.165 (8) and shall be valid for a period not to exceed the period specified in sub.  
24    (1) (c). The department shall clearly mark the receipt "FOR VOTING PURPOSES  
25    ONLY" as validated for use for voting as provided in ss. 5.02 (6m) (d) and 6.79 (2) (a).

1 A receipt issued under this subsection shall contain the information specified under  
2 s. 343.17 (3), including the date of issuance, the expiration date, the name and  
3 signature of the person to whom it was issued, and, except as authorized in sub. (4g),  
4 a photograph of the individual to whom it was issued, and may contain such further  
5 information as the department deems necessary.

6 c. The department shall issue a replacement identification card receipt under  
7 subd 1. a. upon request of the person to whom it is issued if the receipt is lost or  
8 destroyed.

9 d. Notwithstanding subd. 2. a., the department shall cancel or refuse to issue  
10 an identification card receipt under this subsection upon the circumstances specified  
11 in sub. (10), upon the issuance of an operator's license or identification card to the  
12 person, upon the person's request, upon the denial of the application, upon return to  
13 the department of a receipt as nondeliverable, or whenever the department receives  
14 information that prohibits issuance of an identification card under subd. 1.

15 e. Whenever any person, after receiving an identification card receipt under  
16 this subdivision, moves from the address named in the application or in the receipt  
17 issued to him or her or is notified by the local authorities or by the postal authorities  
18 that the address so named has been changed, the person shall, within 30 days, notify  
19 the department of his or her change of address. Upon receiving a notice of change of  
20 address, the department shall promptly issue a new receipt under subd. 2. a. showing  
21 the correct address and having the expiration date of the prior receipt.

22 **SECTION 188.** 343.50 (3) (b) of the statutes is amended to read:

23 343.50 (3) (b) If an identification card is issued based upon the exception  
24 specified in s. 343.165 (7) or (8), the card shall, in addition to any other required

**SECTION 188**

1 legend or design, be of the design specified under s. 343.17 (3) (a) 14. and include a  
2 marking similar or identical to the marking described in s. 343.03 (3r).

3 **SECTION 189.** 343.50 (3) (c) of the statutes is created to read:

4 343.50 (3) (c) 1. Notwithstanding par. (a), the department may issue an  
5 identification card bearing a name other than the name that appears on a supporting  
6 document if the person provides evidence acceptable to the department that the  
7 person has used the name in a manner that qualifies the name as being legally  
8 changed under the common law of Wisconsin, including evidence of the person's prior  
9 name, changed name, the length of time the person has consistently and  
10 continuously used the changed name, an affirmation that the person no longer uses  
11 the prior name, and an affirmation that the person did not change his or her name  
12 for a dishonest or fraudulent purpose or to the injury of any other person. The  
13 department shall mark an identification card issued under this subdivision in the  
14 manner described in s. 343.03 (3r).

15 2. Notwithstanding par. (a), the department shall approve a name change  
16 requested by a person who cannot provide supporting documentation of a lawful  
17 change of name but who does one of the following:

18 a. Provides proof of identity in the new name, and the department receives from  
19 the federal social security administration evidence or confirmation of the name  
20 change.

21 b. Applies for an identification card and provides an affidavit declaring all facts  
22 required under subd. 1. to prove a name change under the common law of Wisconsin.

23 **SECTION 190.** 801.50 (3) (b) of the statutes is amended to read:

24 801.50 (3) (b) All actions relating to the validity or invalidity of a rule or  
25 guidance document shall be venued as provided in s. 227.40 (1).

1           **SECTION 191.** 803.09 (2m) of the statutes is created to read:

2           **803.09 (2m)** When a party to an action challenges in state or federal court the  
3           constitutionality of a statute, facially or as applied, or challenges a statute as  
4           violating or preempted by federal law, as part of a claim or affirmative defense, the  
5           assembly, the senate, and the state legislature may intervene at any time in the  
6           action as a matter of right by serving a motion upon the parties as provided in s.  
7           801.14.

8           **SECTION 192.** 806.04 (11) of the statutes is amended to read:

9           **806.04 (11) PARTIES.** When declaratory relief is sought, all persons shall be  
10          made parties who have or claim any interest which would be affected by the  
11          declaration, and no declaration may prejudice the right of persons not parties to the  
12          proceeding. In any proceeding which involves the validity of a municipal ordinance  
13          or franchise, the municipality shall be made a party, and shall be entitled to be heard.  
14          If a statute, ordinance or franchise is alleged to be unconstitutional, or to be in  
15          violation of or preempted by federal law, the attorney general shall also be served  
16          with a copy of the proceeding and, except as provided under this subsection, be  
17          entitled to be heard. If a statute is alleged to be unconstitutional, or to be in violation  
18          of or preempted by federal law, the speaker of the assembly, the president of the  
19          senate, and the senate majority leader shall also be served with a copy of the  
20          proceeding, and the assembly, the senate, and the state legislature are entitled to be  
21          heard. If the assembly, the senate, or the joint committee on legislative organization  
22          intervenes as provided under s. 803.09 (2m), the assembly shall represent the  
23          assembly, the senate shall represent the senate, and the joint committee on  
24          legislative organization shall represent the state. In an action involving the  
25          constitutionality of a statute, or challenging a statute as violating or preempted by

1 federal law, if the joint committee on legislative organization determines at any time  
2 that the interests of the state will be best represented by special counsel appointed  
3 by the legislature, it shall appoint special counsel to represent state defendants and  
4 act instead of the attorney general and the attorney general may not participate in  
5 the action. Special counsel appointed under this subsection shall have the powers  
6 of the attorney general with respect to the litigation to which special counsel has been  
7 appointed. In any proceeding under this section in which the constitutionality,  
8 construction or application of any provision of ch. 227, or of any statute allowing a  
9 legislative committee to suspend, or to delay or prevent the adoption of, a rule as  
10 defined in s. 227.01 (13) is placed in issue by the parties, the joint committee for  
11 review of administrative rules shall be served with a copy of the petition and, with  
12 the approval of the joint committee on legislative organization, shall be made a party  
13 and be entitled to be heard. ~~In any proceeding under this section in which the~~  
14 ~~constitutionality, construction or application of any provision of ch. 13, 20, 111, 227~~  
15 ~~or 230 or subch. I, III or IV of ch. 16 or s. 753.075, or of any statute allowing a~~  
16 ~~legislative committee to suspend, or to delay or prevent the adoption of, a rule as~~  
17 ~~defined in s. 227.01 (13) is placed in issue by the parties, the joint committee on~~  
18 ~~legislative organization shall be served with a copy of the petition and the joint~~  
19 ~~committee on legislative organization, the senate committee on organization or the~~  
20 ~~assembly committee on organization may intervene as a party to the proceedings and~~  
21 ~~be heard.~~

22 **SECTION 193.** 809.13 of the statutes is amended to read:

23 **809.13 Rule (Intervention).** A person who is not a party to an appeal may  
24 file in the court of appeals a petition to intervene in the appeal. A party may file a  
25 response to the petition within 11 days after service of the petition. The court may



1 grant the petition upon a showing that the petitioner's interest meets the  
2 requirements of s. 803.09 (1) ~~or~~, (2), or (2m).

3 **SECTION 194.** Subchapter VIII (title) of chapter 893 [precedes 893.80] of the  
4 statutes is amended to read:

5 **CHAPTER 893**

6 **SUBCHAPTER VIII**

7 **CLAIMS AGAINST GOVERNMENTAL**

8 **BODIES, OFFICERS AND EMPLOYEES;**

9 **ACTIONS ALLEGING A STATUTE IS**

10 **UNCONSTITUTIONAL OR**

11 **OTHERWISE INVALID**

12 **SECTION 195.** 893.825 of the statutes is created to read:

13 **893.825 Actions alleging a statute is unconstitutional or in violation of**  
14 **or preempted by federal law. (1)** In an action in which a statute is alleged to be  
15 unconstitutional, or to be in violation of or preempted by federal law, the attorney  
16 general shall be served with a copy of the proceeding and, except as provided in sub.  
17 (2), is entitled to represent the state and be heard.

18 **(2)** In an action in which a statute is alleged to be unconstitutional, or to be in  
19 violation of or preempted by federal law, the speaker of the assembly, the president  
20 of the senate, and the senate majority leader shall also be served with a copy of the  
21 proceeding and the assembly, the senate, and the joint committee on legislative  
22 organization are entitled to be heard.

23 **SECTION 196.** 2017 Wisconsin Act 59, section 9145 (4w) is repealed.

24 **SECTION 197. Initial applicability.**

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(1) ~~This act~~ first applies to taxable years beginning on January 1, 2019, except that this act first applies to taxable years beginning on January 1, 2018, for tax-option corporations.

**SECTION 198. Nonstatutory provisions.**

(3) <sup>✓</sup> INTERVENTION BY ASSEMBLY, SENATE, AND JOINT COMMITTEE ON LEGISLATIVE ORGANIZATION. The assembly, senate, and joint committee on legislative organization may intervene as permitted under s. 803.09 (2m) in any litigation pending in state or federal court on the effective date of this subsection. If the joint committee on legislative organization intervenes and appoints special counsel to represent state defendants as set forth under s. 806.04 (11) or 893.825, the attorney general shall notify the court of the substitution of counsel by special counsel appointed by the joint committee on legislative organization to represent the state defendants and may not participate in the action.

**SECTION 199. Fiscal changes.**

(1) <sup>✓</sup> SETTLEMENT FUNDS. Notwithstanding s. 20.001 (3) (c), from the appropriation account under s. 20.455 (3) (g), on the effective date of this subsection, there is lapsed to the general fund the unencumbered balance of any settlement funds in that appropriation account, as determined by the attorney general.

**SECTION 200. Nonstatutory provisions.** <sup>✓</sup>

(3) REQUESTS FOR APPROPRIATION TRANSFERS. During the 2018-19 fiscal year, the department of workforce development may submit to the joint committee on finance one or more requests to transfer moneys from the appropriation account under s. 20.445 (1) (b) to the appropriation accounts under s. 20.445 (1) (dg) and (e) for the purpose of funding the grant programs under ss. 106.13 (3m) and 106.272. If the

committee approves a request in whole or in part, the committee may transfer moneys without making any of the findings required under s. 13.101 (4).

**SECTION 201. Initial applicability.**

(5) The treatment of s. 227.05 with respect to printed publications first applies to guidance documents, forms, pamphlets, or other informational materials that are printed 60 days after the effective date of this subsection.

**SECTION 202. Fiscal changes.**

(1) WORKFORCE DEVELOPMENT; WORKFORCE TRAINING APPROPRIATION DECREASE. In the schedule under s. 20.005 (3) for the appropriation to the department of workforce development under s. 20.445 (1) (b), the dollar amount for fiscal year 2018-19 is decreased by \$7,345,900.

\*\*\*\*NOTE: If you supply an amount for the schedule entry for the appropriation under s. 20.445 (1) (dg), as created in this bill, this amount must be increased by that amount. Is the amount remaining in the appropriation under s. 20.445 (1) (b), stats., sufficient for DWD to meet its statutory obligations?

**SECTION 203. Effective date.**

(1) This act takes effect on the first day of the 7th month beginning after publication.

\*\*\*\*NOTE: I added an effective date as a placeholder to give agencies enough time to update their materials. Is this OK?

(2) This act takes effect on July 1, 2019.

(3) This act first applies to projects let and aid disbursed on the effective date of this subsection.

(4) Notwithstanding s. 20.001 (2) (b), any moneys encumbered under the appropriation accounts under s. 20.455 (2) (gb) and (3) (g) before the effective date of this subsection may be expended pursuant to the terms of the encumbrance.

**SECTION 204. Initial applicability.**